

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,	)	2:10-CV-00206-ECR-RJJ
	)	
Plaintiff,	)	MINUTES OF THE COURT
	)	
vs.	)	DATE: October 22, 2010
	)	
\$35,500.00 IN UNITED STATES	)	
CURRENCY,	)	
	)	
Defendant.	)	
_____	)	

PRESENT: \_\_\_\_\_ EDWARD C. REED, JR. \_\_\_\_\_ U. S. DISTRICT JUDGE

Deputy Clerk: \_\_\_\_\_ COLLEEN LARSEN \_\_\_\_\_ Reporter: \_\_\_\_\_ NONE APPEARING

Counsel for Plaintiff(s) \_\_\_\_\_ NONE APPEARING

Counsel for Defendant(s) \_\_\_\_\_ NONE APPEARING

MINUTE ORDER IN CHAMBERS

Now pending are United States' amended motion for default judgment (#15) and United States' motion to strike (#24) Gonzales' affidavit (#23).

The government filed a motion for entry of clerk's default (#12) on April 9, 2010. The default was requested as to \$35,500.00 in United States Currency ("the defendant property"), Michael Barra Gorostiza, and Garrett T. Ogata, Esq., except all other persons or entities. The Clerk entered default (#13) as requested on April 15, 2010.

The government filed a motion for default judgment of forfeiture (#14) and an amended motion for default judgment of forfeiture (#15) on April 20, 2010, and April 21, 2010, respectively. In addition to requesting a default judgment of forfeiture, the government requested that we certify that there was reasonable cause for the seizure or arrest of the defendant property. Anthony Gonzales filed an opposition (#18) to the amended motion for default judgment (#15), and the government replied (#22). Gonzales subsequently filed an affidavit (#23) on May 28, 2010. The government filed a motion to strike (#24) Gonzales' affidavit (#23) as an unauthorized surreply.

In a separate minute order (#25), we have granted Gonzales additional time in which to file an amended claim and an answer in this case. While the Clerk's entry of default (#13) was directed at the defendant property and persons other than Gonzales, it does not appear that we should enter a judgment of default at this time. Gonzales put the government on notice with a timely, if procedurally deficient, claim and answer, and we have exercised our discretion to grant him an extension of time to correct his filings and attempt to claim the defendant property.

The request that we certify that there was reasonable cause for the seizure of the defendant property is also premature in light of the evidence presented thus far.

**IT IS, THEREFORE, HEREBY ORDERED** that the United States' amended motion for default judgment (#15) is **DENIED** without prejudice. The request that we certify that there was reasonable cause for the seizure of the defendant property is also **DENIED** without prejudice.

**IT IS FURTHER ORDERED** that the United States' motion to strike (#24) Gonzales' affidavit (#23) is **DENIED** as moot in light of our order denying the United States' amended motion for default judgment (#15).

LANCE S. WILSON, CLERK

By                     /s/                      
Deputy Clerk